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3 UNITED STATES DISTRICT COURT

## 4 DISTRICT OF NEVADA

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6 FRANCISCO ANTONIO CRUZ,

Case No. 3:24-cv-00552-MMD-CLB

7 Petitioner,

ORDER

8 v.

9 TERRY ROYAL, *et al.*,10 Respondents.  
11

12 Francisco Antonio Cruz has filed what he has styled as a motion for extension of  
13 time to seek leave to file an amended 28 U.S.C. § 2254 petition for a writ of habeas  
14 corpus. (ECF No. 26.) He explains that he did not initially receive the Court's April 10,  
15 2025 order serving the petition, advising Cruz that if he did not include all claims that he  
16 could seek leave to amend, and directing Respondents to respond to the petition. (See  
17 ECF No. 11.) The Ely State Prison's law library gave Cruz Respondents' motion to dismiss  
18 (ECF No. 25), which was filed July 11, 2025, on July 23, 2025. The library supervisor also  
19 gave Cruz the April 10, 2025 order at that time. Cruz states that if he had received the  
20 order when it issued that he would have sought leave to amend. The supervisor told him,  
21 "We did not know the [screening/service order] was there, sorry." (ECF No. 26 at 2.) He  
22 now asks the Court for an extension of time to seek leave to amend. The Court finds the  
23 request is made in good faith and not for the purposes of delay, and, therefore, good  
24 cause exists to grant the extension. The Court advises that a motion to amend must be  
25 accompanied by a proposed amended complaint. See L-R 15-1(a). Because Cruz intends  
26 to file for leave to amend his petition, the Court denies Respondents' motion to dismiss  
27 without prejudice. (See ECF No. 25.)  
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1 Respondents have also filed a motion for leave to file an exhibit *in camera* and  
2 under seal. (ECF No. 21.) While there is a presumption favoring public access to judicial  
3 filings and documents, see *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597  
4 (1978), a party seeking to seal a judicial record may overcome the presumption by  
5 demonstrating “compelling reasons” that outweigh the public policies favoring disclosure.  
6 See *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006)  
7 (citations omitted). In general, “compelling reasons” exist where the records may be used  
8 for improper purposes. See *id.* at 1179 (citing *Nixon*, 435 U.S. at 598). Here, Respondents  
9 ask to file Cruz’s presentence investigation report (“PSI”) *in camera* and under seal  
10 because it is confidential under state law and contains sensitive information concerning  
11 his crimes, his criminal history, and personal identification information. (ECF No. 21.) The  
12 Court has reviewed the PSI and concludes that Respondents have demonstrated  
13 compelling reasons to file the PSI under seal. However, the PSI does not appear to  
14 include information that is so sensitive that it would pose a security threat to Petitioner if  
15 he had access to the PSI. Respondents note that the PSI may be necessary to address  
16 one or more claims in the petition. Accordingly, the motion is granted in part, and the PSI  
17 will remain under seal.

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1 It is therefore ordered that Petitioner's motion for extension of time to file a  
2 motion for leave to amend the petition (ECF No. 26) is granted. The deadline is  
3 extended to September 30, 2025.

4 It is further ordered that Respondents' motion to dismiss (ECF No. 25) is denied  
5 without prejudice.

6 It is further ordered that Respondents' motion for leave to file an exhibit *in*  
7 *camera* and under seal (ECF No. 21) is granted in part. The document will remain under  
8 seal.

9 DATED THIS 4<sup>th</sup> Day of August 2025.

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13 MIRANDA M. DU  
14 UNITED STATES DISTRICT JUDGE  
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